

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 16087, of the District of Columbia Department of Administrative Services, pursuant to 11 DCMR 3108.1, for a special exception under Section 334 to establish a temporary community service center in the basement through the third floor in an R-4 district at premises 1325 Independence Avenue, S.E. (Square 1038, Lot 803).

HEARING DATE: December 20, 1995

DECISION DATES: January 10, February 7 and 21, and March 6, 1996

ORDER

SUMMARY OF EVIDENCE:

1. The subject property is located on the south side of Independence Avenue between Kentucky Avenue, 13th and 14th Streets, S.E., and is known as premises 1325 Independence Avenue, S.E. (Square 1038, Lot 803). The site is zoned R-4.

2. The site, Lot 803, is irregular in shape and contains 89,447 square feet of land area in Square 1038. Lot 803 is a through-lot with frontage on Independence and South Carolina Avenues.

3. The site is improved with a structure formerly used as an elementary school known as the Thomas B. Bryan Elementary School. The structure is comprised of a three-story plus basement building (Bryan west) connected by a single-story enclosed connection to a two-story building (Bryan east). The west building was constructed in 1903, the east building is a modern-annex built in 1968. The buildings contain 54,700 square feet of gross floor area. The buildings occupy approximately one-third of the site. The remaining land is generally paved and is used as play space and parking.

The west building is presently vacant. The east building is occupied.

4. The site is one of ten District of Columbia Public Schools closed in 1994 and transferred to the Executive Branch of the government.

5. The site is located in the Lincoln Park Neighborhood and Capitol Hill Historic District of Ward 6. The predominant land use within the subject square and surrounding the site is residential. The residential uses are comprised of single-family row dwellings and low and mid-rise apartment buildings. Lincoln

Park is located one block north of the site. The subject square and the area in all directions for at least one square are in the R-4 District.

6. The R-4 District permits matter of right development of residential uses including detached, semi-detached, and row single-family dwellings and flats. A temporary community service center created for the purpose of improving the social or economic well being of the residents of the neighborhood is a permitted use in an R-4 District, if approved by the Board.

7. The applicant is requesting a special exception for a temporary community service center under the provisions of Section 334 of the Zoning Regulations to continue and expand a facility to house the following Department of Human Services (DHS) offices:

a. Capitol East Service Center, operated by the Department of Human Services Income Maintenance Administration, provides evaluation services to public assistance and food stamp recipients. This office has been operating in the Bryan east building since February 1995. The office currently employs 27 staff members, and, on average, provides service to 120 clients daily.

b. Office of Fair Hearings, under the Office of the DHS Director is responsible for hearing cases of conflict between DHS and its clients. It has eight employees and sees 12-15 clients per day. This office is, and would remain, the sole such office in the entire city.

c. Home Care Services Bureau of the Commission on Public Health is responsible for the medical care of indigent elderly persons outside of hospital settings. It has a staff of 20 and sees about 20 health service providers daily. This office also is, and would remain, the sole such office in the entire city.

d. Payments and Collections Division of the Controller's Office handles the collection of DHS debts as well as social service-related payments. The office has a staff of 56 and sees approximately 50 visitors per day. Likewise, this office also is, and would remain, the sole such office in the entire city.

8. The applicant testified that the Income Maintenance office provides services primarily to residents of Ward 6, predominantly west of the Anacostia River. Its services are provided in an area covering eight census tracts in the Capitol

Hill community. It is one of two such service centers in Ward 6. There are Income Maintenance office in each Ward of the city.

9. The other offices (Fair Hearings, Home Care Services Bureau and Payments and Collections) are being relocated from the One Judiciary Square building to facilitate relocation of other offices, mostly from the John Wilson Building, during its renovation. Although the offices would service Ward 6, the offices proposed for Bryan School have, and would continue to have, city-wide responsibilities.

10. The applicant stated that the income maintenance office was responsible for assisting District citizens in the surrounding and other areas in their efforts to sustain their health and well being. In oral testimony, the applicant asserted that the other offices proposed to be located at the site provided services linked in part to those furnished by the income maintenance office and thus would serve Ward 6 residents, as well as residents of the entire city. If all visitors to all four offices were considered, more visitors would come from Ward 6 than from any other single Ward in the city.

11. The applicant testified that there would be no activities that the surrounding community should find objectionable. In oral testimony, the applicant stated that a facilities maintenance contract was in the process of being negotiated. The applicant also testified that Independence Avenue is a major traffic corridor; thus, increased traffic will not negatively affect the community or existing traffic patterns. The applicant pointed out that approximately 73,000 square feet of the playground was accessible from South Carolina Avenue and could be used for parking over 500 automobiles and could thus accommodate both visitors and staff.

12. The applicant stated that only physical changes required to bring the building into compliance with local rules and regulations would be made. In oral testimony, the applicant noted the necessity to bring the buildings into compliance with the Americans with Disabilities Act. The Office of Planning concurred that no structural changes were proposed beyond those required by D.C. laws and regulations, including handicap accessibility, which included the likelihood that an elevator would have to be installed.

13. The applicant testified, and the Office of Planning concurred, that all the offices were part of the District of Columbia government and thus not organized for profit and that no income would be derived from them to benefit any private shareholder or individual.

14. The applicant stated that the final use of the facility will be reviewed as part of the Comprehensive City Wide Executive Space Plan, which will be completed within the three-year time-frame imposed by Section 334.6. The applicant further stated that the Executive will make all necessary arrangements to comply with relevant zoning and other regulations when the city's space requirements have been established. The applicant also pointed out that the city was in the process of reconsidering its human services policies and delivery mechanisms; this created uncertainties regarding the permanence of income maintenance services. The applicant also pointed to the additional uncertainties created by the government's well-known budget difficulties, which required that the government get maximum return from its capital investment and minimize lease payments. With respect to the three city-wide offices, they are to be relocated to make space for certain government offices while their space is being renovated.

15. The applicant stated that its proposal reflects policy concerns related to the provision of facilities for the efficient distribution of services in the District Comprehensive Plan.

16. The Department of Human Services testified that the Capitol East Service Center had been in existence for some twenty years, nine at its previous location at 433 9th St., NE. Its relocation to Bryan School was the result their lease expiring.

17. The Office of Planning (OP), by memorandum dated December 13, 1995, recommended that the application be approved, subject to the applicant's ability to demonstrate that the proposed DHS uses would benefit the neighborhood in which the uses are proposed to be located. The Office of Planning also recommended that approval be accompanied by conditions that ... (1) the number of employees on the premises shall not exceed 109; (2) the hours and days of operation shall not exceed 7 a.m. to 7.p.m. Monday through Friday. The center shall close by 9 p.m. when occasional evening meetings are held; (3) the application shall submit a parking plan that identifies the layout of the parking lot; (4) there shall be no loitering on the premises; and (5) the grounds of the facility shall be maintained in a neat and orderly appearance at all times.

18. The Office of Planning concurred that the services provided by the Capitol East Service Center were intended to improve the social and economic well-being of Ward 6 residents, found it imperative that the services provided continue uninterrupted, and stated that its location at the site, in view of the limited options available, would provide maximum benefits to the residents of the ward. The Office of Planning noted that the three additional offices (Fair Hearings, Home Care Services Bureau and Payments and Collections) had city-wide responsi-

bilities. However, OP stated that these services should have a substantial community-serving benefit but was unable to ascertain the extent to which the community would benefit directly from the proposed use.

19. The Office of Planning concurred with the applicant that parking and traffic should not adversely affect the neighborhood, pointing to the building's previous uses as a school and D.C. Public School offices, but requested the applicant to provide a parking lot layout plan. The Office of Planning also stated that all activities would be conducted in the building and that outdoor activities, including loitering on the premises, would not be permitted. The Office of Planning was unaware of any similar facilities in the Lincoln Park neighborhood.

20. Advisory Neighborhood Commission (ANC) 6B, by letter dated December 13, 1995, transmitted a resolution, urging the Board to deny the application. The ANC opposed the application because it found no significant community support and was strongly opposed by the affected neighborhood. The ANC also found that the applicant had not met the requirements of Section 334, especially with respect to improving the social and economic well-being of the residents of that neighborhood, not creating objectionable conditions, and meeting neighborhood necessity and convenience. ANC 6B also concluded that the scale of the existing use (the income maintenance center) was physically-inappropriate and too employee/client intensive to be compatible with the surrounding neighborhood and that the use was incompatible with the Ward 6 Plan.

21. The Bryan School Neighborhood Association (BSNA), testifying in opposition, pointed out that the existing Income Maintenance center and the proposed additional uses were excessively staff- and visitor-intensive and not neighborhood-focussed. The Income Maintenance office's present caseload of 3,000/120 visitors per day was not appropriate to a neighborhood of approximately 600 households. The BSNA argued that a more appropriate definition of the term "neighborhood" in Section 334.1 would be the Lincoln Park neighborhood, which was more typical of Capitol Hill neighborhoods. The BSNA also argued that the term "neighborhood," by its very definition, excluded those offices which would service the entire city and which would constitute the only such offices in the city.

22. The BSNA also noted that the city's application vastly exceeded the physical scale and intensity of use in recent Section 334 approvals by the Board. Since 1991, all community service center approvals involved uses in premises similar in physical size to the single-family homes in the neighborhoods in which they were located. Uses were typically limited to small numbers of staff and visitors. The highest intensity usage

limited staff to eight, volunteers to 14, and imposed limits from 20-40 visitors to 30 families per day.

23. The BSNA also stated that the existing Income Maintenance facility had created objectionable conditions that adversely affected neighboring properties. Its testimony pointed to increased street trash, pedestrian traffic, loitering, parking problems and noise levels. There was more suspicious activity, or the perception of suspicious activity and increased crime. It complained that the city had not maintained the property. The BSNA pointed to statements by the neighbors of similar problems when the Income Maintenance center was located at 433 9th St., NE. These conditions threatened the neighborhood's quality of life and property values.

24. The BSNA believed that the services provided by the income maintenance center had not been shown to be reasonably necessary or convenient to the neighborhood. In addition to challenging the definition of neighborhood based on a ward, quadrant or city, the BSNA pointed out that the Income Maintenance office's clients would be better served by centers located elsewhere. The BSNA offered what it believed to be feasible alternatives.

25. The BSNA also argued that the application was inconsistent with Section 334.6 regarding temporary usage, noting that the city had long provided and expected to continue to need to provide the services. Moreover, the BSNA pointed out that the city had relocated the service center from its former location because it was forced to and not because of any need to provide services to residents of the Bryan School neighborhood. The BSNA stated that the applicant's substantial spending, approximately \$300,000 to date, in renovating the Bryan School east building for the Income Maintenance facility, and even more substantial sums required to bring the Bryan west into compliance with codes and the Americans with Disabilities Act, did not support a conclusion that the Income Maintenance office or the other offices would only be temporary residents at Bryan.

26. The BSNA pointed out that approval would create a presumption favoring future approvals of this size and intensity of use that could be applied to applications involving surplus schools and other facilities, such as churches, originally located in residential neighborhoods as a matter of right.

27. The BSNA challenged the proposed application as inconsistent with the Ward 6 Plan sections on Economic Development, Housing, Land Use, Public Facilities, and Preservation and Historic Features. In arguing for rejection of the city's application, the BSNA pointed especially to that portion of the Ward 6 Plan which states "Future use, including adaptive reuse of

public facilities, including schools, shall conform with existing uses and neighborhood objectives as stated in the Ward Plan." These conclusions were endorsed by ANC 6B and the Capitol Hill Restoration Society.

28. The Capitol Hill Restoration Society, in a statement dated December 27, 1995, opposed the application as inconsistent with the Ward 6 Comprehensive Plan, D.C. Municipal Regulations, Title 11, Section 334, and with the desires of community residents. The Capitol Hill Restoration Society also argued that approval would set a dangerous precedent for office use of other government-owned buildings in residential neighborhoods.

29. The Capitol Hill Restoration Society maintained that the language of Section 334.1 clearly intended a community service center to be a neighborhood-focussed operation and that neighborhood was appropriately defined for the purposes of Section 334.1 by the dimensions of neighborhood civic associations, such as long-standing Capitol Hill area-specific associations like the Stanton Park Neighborhood Association, Sousa Neighborhood Association, and North Lincoln Park Association, and not by Ward or Quadrant boundaries, much less city-wide as contemplated by the applicant in the case of the three proposed DHS offices.

30. The Capitol Hill Restoration Society also asserted that the city's financial problems could not be used to justify ignoring or compromising the city's legally-approved zoning laws and city planning.

31. Petitions in opposition containing over 220 signatures of neighborhood residents and letters from 14 neighborhood residents were introduced at the hearing. The record contains as well 15 letters in opposition, many of which testify to increases in trash, litter, noise, parking problems, suspicious behavior and other objectionable conditions since the Income Maintenance office was relocated to Bryan School in February 1995. The letters raised concerns that such objectionable conditions would be exacerbated if the applicant's operations at the site were expanded. Nine neighbors testified orally in opposition, especially regarding objectionable conditions, such as trash, litter, lack of maintenance, loitering, and suspicious behavior, and diminished property values.

32. ANC 6B, the BSNA, the Capitol Hill Restoration Society and neighborhood residents testified orally and in writing that the applicant had not followed District of Columbia law and regulation regarding community notification, Board of Zoning Adjustment approval, Certificate of Occupancy, and building permits and inspections. BSNA testimony also pointed out that the city had not responded as required by law to a Freedom of

Information Act request, nor had the Department of Consumer and Regulatory Affairs investigated reports of irregularities in a timely fashion. Many complained that approving the applicant's case would retroactively approve an illegal act.

33. At its meeting of February 21, 1996, the Board reopened the record to receive additional information from the applicant that included the square footage needed for the Income Maintenance office in the Bryan School east building. By memorandum dated February 26, 1996, DAS indicated that the occupiable space in the east wing is 8,148 square feet and 41 parking spaces will be provided at the rear of the building. Those spaces are provided at the rate of one space for every 200 square feet of gross floor area.

The opposition responded to the applicant's submission by asserting that the proposed 41 spaces could be inadequate given the competition for on-street parking spaces in the community.

FINDINGS OF FACT:

1. The Board agrees with the opposition that the three offices proposed for relocation to the Bryan School (Fair Hearings, Home Care Services and Payments and Collections) currently perform city-wide functions and would continue in this capacity after relocation do not fit the definition of "neighborhood" under Section 334 of the Zoning Regulations.

2. The Board agrees with the opposition that the three offices proposed for relocation to the Bryan School in addition to the existing Income Maintenance office would create a level of activity too intense and out of scale with the surrounding residential environment.

3. The Income Maintenance Office has a service area of eight census tracts in the Capitol Hill area of Ward 6 west of the Anacostia River. A separate office serves the Ward 6 population east of the Anacostia River. The Board finds the Income Maintenance office's service area is consistent with the term "neighborhood" under 11 DCMR 334.

4. The Income Maintenance office occupies the Bryan School East building and has 27 employees and serves approximately 120 clients per day. The Board finds this intensity of use to be acceptable and similar to the Bryan School functioning as a public school or training facility.

5. The Comprehensive City-Wide Executive Space Plan is being prepared by the city and will identify the long-term disposition of the Bryan School. The Board finds that the City's use of the Bryan School is temporary in nature. As provided for



in 11 DCMR 334.6 and as herein after conditioned the continued use of the Bryan School as a temporary community service center must meet Board approval.

6. The applicant is securing a maintenance contract for the Bryan School.

7. The proposed use would not be operated for profit and has not proposed to make structural changes, other than those required by law or regulation.

8. The Board finds that while it may have approved previous temporary community service centers at a scale and size smaller than what is being proposed, this is the first of this size and scale to seek approval. Each case is heard on its own merits with differing circumstances and facts. It does not mean that a larger facility cannot be found to be compatible with a residential neighborhood.

9. The floor area occupied by the Income Maintenance office of 8,148 square feet would require 41 off-street parking spaces. The Board finds that a greater number of spaces may encourage a greater number of clients to drive to the facility.

10. Where an applicant has established a use without obtaining the proper certificate of occupancy or other approvals, the Board does not hear and decide those cases based on its illegal use.

11. As a temporary use of the subject site, the Board finds a community service center to be consistent with the District of Columbia Comprehensive Plan and Ward 6 Plan.

12. The Board finds that imposing certain conditions on the application will minimize certain objectionable conditions such as trash and loitering. Some increase in pedestrian traffic and noise levels would naturally occur when a vacant structure becomes occupied. The Board finds a need for a more open means of communication between the applicant and residents.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to allow a temporary community service center in an R-4 District. The granting of such a special exception requires a showing through substantial evidence that the proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring properties. The applicant must also meet the requirements of Section 334 of the Zoning Regulations.

The Board concludes that the applicant has met the standard for granting the special exception in part. The Board concludes that of the four offices to be located at the Bryan School, only one, the Income Maintenance Office, serves a neighborhood function while the other offices have a city-wide function. The Board concludes that the Income Maintenance office provides a scale and intensity of use more compatible with neighboring property. The city is securing a maintenance contract to maintain the Bryan School property that will minimize any trash or debris on its grounds. No structural changes are to be made to the buildings except those required by other municipal laws and regulations. The service center is not organized for profit. The location is necessary and reasonably convenient to Ward 6 residents west of the Anacostia. The Board concludes that there is a need for a liaison with the community to act upon any concerns of the residents.

The Board further concludes that granting the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map, and does not conflict with the Comprehensive Plan or the Ward 6 Plan.

The Board concludes that it has given the ANC the "great weight" to which it is entitled. Accordingly, it is ordered that the application is hereby **GRANTED** subject to the following **CONDITIONS**:


1. The community service center is limited to the Income Maintenance Office of the D.C. Department of Human Services.
2. The center shall be located on the ground floor of the east wing of the structure and shall occupy no more than 8,148 square feet of floor area.
3. The hours of operation shall be from 7:00 a.m. to 7:00 p.m., Monday through Friday. Occassional evening meetings may occur until 9:00 p.m.
4. The number of employees shall not exceed 28.
5. Forty-one parking spaces shall be provided on-site.
6. Trash shall be picked up twice per week.
7. Every effort shall be made to prevent loitering on the premises and its immediate surroundings.

8. The grounds shall be kept free of refuse and debris. Existing landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
9. A liaison with the community shall be established. A person's name and phone number shall be provided to the community to receive any concerns from residents.
10. Approval shall be for two years.

VOTE: 4-1 (Angel F. Clarens, Maybelle Taylor Bennett, Sheila Cross Reid and Susan Morgan Hinton to grant; Laura M. Richards opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. DOBBINS  
Director

FINAL DATE OF ORDER:

JUL 3 1996

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



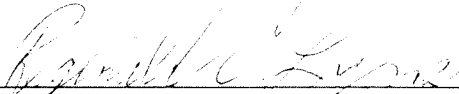
BZA APPLICATION NO. 16087

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUL 3 1996 a copy of the order entered on that date in this matter was mailed postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed below:

James Parks  
Department of Administrative Services  
441 4th Street, N.W., 7th Floor  
Washington, D.C. 20001

Brian R. Furness  
Bryan School Neighborhood Association  
1367 Massachusetts Avenue, S.E.  
Washington, D.C. 20003

Peter J. Waldron, Chairperson  
Advisory Neighborhood Commission 6B  
921 Pennsylvania Avenue, S.E., #108  
Washington, D.C. 20003

  
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MADELIENE H. DOBBINS  
Director

Date: JUL 3 1996